

# Exhibit EE - Dr. Allison Redlich Deposition

Allison Redlich

Kirstin Blaise Lobato v. Las Vegas Metropolitan Police Department, et al.

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## 1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA )  
3 ) ss  
4 COUNTY OF CLARK )

5 I, Lori-Ann Landers, a duly commissioned  
6 Notary Public, Clark County, State of Nevada, do hereby  
7 certify:

8 That I remotely reported the taking of the  
9 deposition of the witness, ALLISON REDLICH, at the time  
10 and place aforesaid;

11 That prior to being examined, the witness  
12 was by me duly sworn to testify to the truth, the whole  
13 truth, and nothing but the truth;

14 That I thereafter transcribed my shorthand  
15 notes into typewriting and that the typewritten  
16 transcript of said deposition is a complete, true and  
17 accurate transcription of my said shorthand notes taken  
18 down at said time to the best of my ability.

19 I further certify that I am not a relative  
20 or employee of an attorney or counsel of any of the  
21 parties, nor a relative or employee of any attorney or  
22 counsel involved in said action, nor a person financially  
23 interested in the action; and that transcript review FRCP  
24 30(e) was requested.

25 IN WITNESS WHEREOF, I have hereunto set my  
hand in the County of Clark, State of Nevada, this 5th  
day of March 2021.

LORI-ANN LANDERS, CCR 792, RPR

**Kirstin Blaise Lobato**

**v.**

**Las Vegas Metropolitan Police Department, et al.**

**Transcript of**  
**Allison Redlich**  
**Volume I**  
**March 5, 2021**



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UNITED STATES DISTRICT COURT  
CLARK COUNTY, NEVADA  
  
KIRSTIN BLAISE LOBATO, )  
Plaintiff, )  
vs. ) Case No.  
LAS VEGAS METROPOLITAN ) 2:19-cv-01273-RFB-EJY  
POLICE DEPARTMENT, )  
THOMAS THOWSEN, and )  
JAMES LaROCHELLE, )  
Defendants. )

VIDEOCONFERENCE DEPOSITION of ALLISON REDLICH  
Taken on Friday, March 5, 2021  
At 9:01 a.m.  
Manassas, Virginia

Reported by: Lori-Ann Landers, CCR 792, RPR

Allison Redlich

Kirstin Blaise Lobato v. Las Vegas Metropolitan Police Department, et al.

<p>1 A P P E A R A N C E S:</p> <p>2 For the Plaintiff Kirstin Blaise Lobato</p> <p>3 ELIZABETH WANG, ESQ. (Via videoconference)</p> <p>4 Loevy &amp; Loevy</p> <p>5 2060 Broadway, Suite 460</p> <p>6 Boulder, Colorado 80302</p> <p>7 Email: elizabethw@loevy.com</p> <p>8 For the Defendants LVMPD, James LaRochelle and Thomas</p> <p>9 Thowsen</p> <p>10</p> <p>11</p> <p>12 CRAIG R. ANDERSON, ESQ. (Via videoconference)</p> <p>13 Marquis Aurbach Coffing</p> <p>14 10001 Park Run Drive</p> <p>15 Las Vegas, Nevada 89145</p> <p>16 Email: canderson2macclaw.com</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>ALSO PRESENT VIA VIDEOCONFERENCE:</p> <p>LEAH DELL</p>	2	<p>1 P R O C E E D I N G S</p> <p>2 (Prior to the commencement of the deposition proceedings,</p> <p>3 a discussion was held off the record among the court</p> <p>4 reporter and counsel, wherein counsel stipulated to waive</p> <p>5 the reporter requirements under Rule 30(b)(4).)</p> <p>6</p> <p>7 THE REPORTER: Will all counsel please</p> <p>8 stipulate to the swearing in of the witness remotely?</p> <p>9 MS. WANG: Stipulated by plaintiff.</p> <p>10 MR. ANDERSON: The defendants stipulate.</p> <p>11 (Witness sworn.)</p> <p>12 ALLISON REDLICH,</p> <p>13 having been first duly sworn, was examined and</p> <p>14 testified as follows:</p> <p>15</p> <p>16 EXAMINATION</p> <p>17 BY MR. ANDERSON:</p> <p>18 Q. Can I get you to state your name for the record.</p> <p>19 A. Sure. It's Allison Redlich.</p> <p>20 Q. And is it okay if I call you Dr. Redlich?</p> <p>21 A. Sure.</p> <p>22 Q. Okay. Dr. Redlich, have you had your deposition</p> <p>23 taken before?</p> <p>24 A. Yes.</p> <p>25 Q. About how many times?</p> <p>A. A deposition, in the past four years, it's been</p> <p>three times.</p> <p>Q. Okay. Are you comfortable with what we are</p>	4
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>I N D E X</p> <p>WITNESS</p> <p>ALLISON REDLICH</p> <p>Examination by Mr. Anderson</p> <p>EXHIBIT INDEX</p> <p>(No exhibits were marked.)</p>	3	<p>1 going to do here today? Do you want me to explain to you</p> <p>2 what a deposition is, or do you want me to skip the</p> <p>3 formalities?</p> <p>4 A. I think I would like a brief overview.</p> <p>5 Q. Okay. No problem. So, Dr. Redlich, as you are</p> <p>6 aware, you have been retained as an expert by Kirstin</p> <p>7 Blaise Lobato in a civil lawsuit she's filed against the</p> <p>8 Las Vegas Metropolitan Police Department and two</p> <p>9 detectives.</p> <p>10 Do you understand that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. A deposition is an opportunity for me to</p> <p>13 question you about your opinions that you are going to</p> <p>14 offer in the case, the report that you have authored and</p> <p>15 any opinions that you may or will give at the time of</p> <p>16 trial.</p> <p>17 Does that make sense?</p> <p>18 A. Yes.</p> <p>19 Q. It's a question-and-answer period where I will</p> <p>20 ask questions; you will give answers.</p> <p>21 Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Do you understand that you have taken an</p> <p>24 oath to tell the truth, the same oath that you would take</p> <p>25 in a court of law?</p>	5

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<p>6</p> <p>1 A. Yes.</p> <p>2 Q. I only want answers to questions that you know</p> <p>3 the answer to. It's perfectly fine to say, "I don't</p> <p>4 know," "I don't remember," or "I don't have any</p> <p>5 information on that."</p> <p>6 Does that make sense?</p> <p>7 A. Yes.</p> <p>8 Q. I don't take too long of depositions. I suspect</p> <p>9 this might go two, two and a half hours maybe. If at any</p> <p>10 time you want to take a break, you want to speak with</p> <p>11 Ms. Wang, just let me know, and we can arrange that.</p> <p>12 Okay?</p> <p>13 A. Okay. Sounds good.</p> <p>14 Q. Is there any reason why you couldn't give</p> <p>15 truthful testimony today? Are you feeling ill? Are you</p> <p>16 on any medication?</p> <p>17 A. No.</p> <p>18 Q. Do you have any questions for me about the</p> <p>19 deposition process before we start?</p> <p>20 A. No, I don't think so.</p> <p>21 Q. Okay. What is your current occupation?</p> <p>22 A. I am a professor in the Department of</p> <p>23 Criminology, Law and Society at George Mason University.</p> <p>24 Q. And how long have you been employed by George</p> <p>25 Mason University?</p>	<p>8</p> <p>1 Q. And what was the topic of your dissertation?</p> <p>2 A. It was a laboratory study in which I compared</p> <p>3 juveniles, ages -- it's been so long. I think they were</p> <p>4 age 13 to 17, maybe 11 to 17 -- I'm sorry, I don't</p> <p>5 remember, it's been about 25 years -- but to young adults</p> <p>6 ages 18 to 25, 24 maybe -- looking at their likelihood of</p> <p>7 giving a false confession in a mock interrogation</p> <p>8 situation.</p> <p>9 Q. Okay. So during your education when you were</p> <p>10 earning your degrees, you had a focus at that point on</p> <p>11 false confessions?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 A. My training was about best practices in</p> <p>15 interviewing youths as victim witnesses, and I took what</p> <p>16 I learned in that context and applied it to interviewing</p> <p>17 youth in interrogation context, more as a suspect.</p> <p>18 Q. Okay. So about how many years have you been</p> <p>19 researching, studying, and testifying regarding false</p> <p>20 confessions?</p> <p>21 A. Well, I have been researching, studying false</p> <p>22 confessions for about 25 years, I would say. In terms of</p> <p>23 testifying, the first time that I gave testimony was in</p> <p>24 2004, so that's about 15, 16 years maybe.</p> <p>25 Q. How many times have you testified in court with</p>
<p>7</p> <p>1 A. About five and a half years.</p> <p>2 Q. Prior to George Mason University, were you</p> <p>3 employed?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Where did you work then?</p> <p>6 A. I was first an assistant and then an associate</p> <p>7 professor at the University at Albany, SUNY Albany for</p> <p>8 seven years.</p> <p>9 Q. Can you give me a brief sketch of your</p> <p>10 educational history.</p> <p>11 A. Sure. I received my Ph.D. in Developmental</p> <p>12 Psychology at the University of California at Davis in</p> <p>13 1999. I then spent three years at Stanford University</p> <p>14 School of Medicine in the Department of Psychiatry and</p> <p>15 Behavioral Sciences. Two of those years were as a</p> <p>16 postdoctoral fellow, and one year was as a research</p> <p>17 scientist.</p> <p>18 I think you said -- just said education? Not my</p> <p>19 employment background?</p> <p>20 Q. If you would just fill us in on your employment.</p> <p>21 A. We hit most of it. I will just say that after I</p> <p>22 left Stanford, I took a job at a private research firm</p> <p>23 for six years in Albany, New York.</p> <p>24 Q. And did you do a dissertation for your Ph.D.?</p> <p>25 A. I did.</p>	<p>9</p> <p>1 respect to false confessions?</p> <p>2 A. Not very often. I would say less than five.</p> <p>3 Q. Were those in a criminal context, a civil</p> <p>4 context, or both?</p> <p>5 A. Both.</p> <p>6 Q. So you were retained as an expert in both</p> <p>7 criminal cases and civil cases; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, as part of your research and developing</p> <p>10 this expertise, have you ever received any specific</p> <p>11 police training?</p> <p>12 A. By the police?</p> <p>13 Q. Yeah. Have you ever gone through police</p> <p>14 interrogation training, anything along those lines?</p> <p>15 A. No. I am familiar with the written manual of</p> <p>16 the Reid Technique. It's written by Inbau, et al., but I</p> <p>17 have not received direct training face to face.</p> <p>18 Q. I was just wondering, as part of your</p> <p>19 background, you had taken police training courses, saw</p> <p>20 how they were trained in interrogation just out of</p> <p>21 curiosity in order to further your career.</p> <p>22 Never done anything like that?</p> <p>23 A. No.</p> <p>24 Q. Have you ever assisted police departments in</p> <p>25 writing policies for interrogations?</p>

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<p>10</p> <p>1 A. No.</p> <p>2 Q. Have you ever been asked to assist police</p> <p>3 departments in developing interrogation techniques that</p> <p>4 are fairer to the youth or juveniles?</p> <p>5 A. I would say informally, but not on a formal</p> <p>6 basis, no.</p> <p>7 Q. Okay. Now, the scope of your work in this case,</p> <p>8 in the Kirstin Lobato case, simply involves the</p> <p>9 July 20th, 2001, interview by Detectives Thowsen and</p> <p>10 LaRoche; is that correct?</p> <p>11 A. Well, I have reviewed material that is</p> <p>12 tangential to that, to the interrogation as well.</p> <p>13 Q. That probably wasn't a fair question. What I'm</p> <p>14 trying to get, are you offering any opinions on police</p> <p>15 practices or about how the police conducted their</p> <p>16 investigation outside of this interview?</p> <p>17 A. Not per se, no.</p> <p>18 Q. Okay. I will give you a chance to flesh that</p> <p>19 out, because I don't think that's a very good question,</p> <p>20 so I will come back to that.</p> <p>21 Now, I think I might have asked this, so I</p> <p>22 apologize if I'm asking it again, but you have never</p> <p>23 been -- you have never trained police officers on how to</p> <p>24 interrogate; correct?</p> <p>25 A. Well, I have given presentations to police -- to</p>	<p>12</p> <p>1 time; correct?</p> <p>2 A. Yes.</p> <p>3 Q. I have a February 5th, 2000, [sic] expert report</p> <p>4 that you drafted to David Owens and Elizabeth Wang. Is the</p> <p>5 CV attached to that still current with your publications?</p> <p>6 A. There might be one or -- one or two more that</p> <p>7 have come up since, but generally very current, yeah.</p> <p>8 Q. Okay. And when were you retained by the law</p> <p>9 firm Loevy &amp; Loevy in this matter?</p> <p>10 A. I mean, retained by them? The first time they</p> <p>11 contacted me?</p> <p>12 Q. Yes.</p> <p>13 A. I would have to check my record, but my estimate</p> <p>14 is about a year ago maybe, maybe six months ago.</p> <p>15 Q. And if I understand correctly, you had done some</p> <p>16 earlier work on this case in the criminal case that was</p> <p>17 ongoing; correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that was roughly in the years 2017,</p> <p>20 2016?</p> <p>21 A. Yes. 2017, and then I was first contacted by</p> <p>22 Hans Sherrer -- I'm not sure of his last name -- in -- I</p> <p>23 believe it was 2010.</p> <p>24 Q. And what is your understanding as to who Hans</p> <p>25 Sherrer is?</p>
<p>11</p> <p>1 police.</p> <p>2 Q. How does that come about?</p> <p>3 A. They usually contact me and ask me if I'm</p> <p>4 willing to give a presentation at their conference,</p> <p>5 something along those lines.</p> <p>6 Q. Do you have, like, a set presentation you give,</p> <p>7 like a PowerPoint presentation or materials you use in</p> <p>8 those trainings?</p> <p>9 A. It really depends on the focus. I mean,</p> <p>10 sometimes people want me to focus on juveniles, sometimes</p> <p>11 they want me to focus on mental health problems,</p> <p>12 sometimes just interrogation practices in general.</p> <p>13 I have another related line of research that's</p> <p>14 on human intelligence so kind of in a military or a</p> <p>15 federal setting, so I would say that I don't have one set</p> <p>16 or, you know, one specific PowerPoint, and it certainly</p> <p>17 changes over the years as the science is updated.</p> <p>18 Q. Okay. What was the first year you published in</p> <p>19 the field of false confessions?</p> <p>20 A. May I look at my CV?</p> <p>21 Q. Please. Please.</p> <p>22 A. I would say a peer-reviewed publication, my</p> <p>23 first one for false confessions, on that topic, would be</p> <p>24 my dissertation in 2003.</p> <p>25 Q. And you published fairly consistently since that</p>	<p>13</p> <p>1 A. Well, we're going back 10, 11 years now, but my</p> <p>2 recollection, he's just a -- he was somebody who was</p> <p>3 interested in the case. I'm not really -- I don't</p> <p>4 remember.</p> <p>5 Q. Did he pay you for your work?</p> <p>6 A. No.</p> <p>7 Q. Okay. You just did a pro bono for free?</p> <p>8 A. Yes. It wasn't as in-depth a review I did in</p> <p>9 2017. It's -- I think I just reviewed maybe her</p> <p>10 statement, a few documents that he had prepared, and I</p> <p>11 had written a very brief letter or report. It was, like,</p> <p>12 maybe one page.</p> <p>13 Q. Okay. And your 2017 report or letter to her</p> <p>14 criminal defense attorneys was more of a thorough review?</p> <p>15 A. Yes.</p> <p>16 Q. And were you paid for that?</p> <p>17 A. Yes.</p> <p>18 Q. How much are you charging Loevy &amp; Loevy in this</p> <p>19 matter?</p> <p>20 A. \$300 per hour.</p> <p>21 Q. Do you know how much you have charged to date?</p> <p>22 A. Not precisely, but it's about 4,000.</p> <p>23 Q. Can you estimate how much you charged</p> <p>24 Ms. Lobato's criminal defense attorneys in 2016, 2017?</p> <p>25 A. I can certainly look, but I don't recall off the</p>



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<p>14</p> <p>1 top of my head.</p> <p>2 Q. Have you been retained in other false confession</p> <p>3 cases by Loevy &amp; Loevy?</p> <p>4 A. Not to my knowledge. Not to my recollection,</p> <p>5 no.</p> <p>6 Q. This is your first case with them?</p> <p>7 A. Yes, I believe so.</p> <p>8 Q. Do you have any other open cases with the law</p> <p>9 firm of Loevy &amp; Loevy?</p> <p>10 A. No.</p> <p>11 Q. Now, how much of your time is spent doing expert</p> <p>12 work?</p> <p>13 A. I would say very little.</p> <p>14 Q. Your primary occupation is you're a professor;</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have an estimate as to how much money you</p> <p>18 make a year doing expert work?</p> <p>19 A. I can estimate it. It really varies from year</p> <p>20 to year. But I would say it ranges from 5,000 to 15,000.</p> <p>21 Q. How many open cases do you have right now where</p> <p>22 you are a retained expert?</p> <p>23 A. I would say maybe four, and a large part of that</p> <p>24 is because of COVID that, you know, certain cases that</p> <p>25 should have been wrapped up by now, but I would say just</p>	<p>16</p> <p>1 Q. Have you ever been asked as an expert witness to</p> <p>2 review a file where you told the attorney, "There is</p> <p>3 nothing here," that this interrogation is fine?</p> <p>4 A. Yes.</p> <p>5 Q. Can you think of an example of that?</p> <p>6 A. No, because -- you know, there -- I don't really</p> <p>7 get into it that -- I don't get into the case that much.</p> <p>8 It's my initial opinion, you know. I really -- I am</p> <p>9 contacted often, but I most -- I come to a response to</p> <p>10 decline. I don't take on that many cases.</p> <p>11 Q. So what's the criteria you look for to take on a</p> <p>12 case?</p> <p>13 A. Well, the first thing that's, you know -- is my</p> <p>14 time, you know, and when they are looking for an expert,</p> <p>15 and oftentimes, you know, it doesn't fit into my</p> <p>16 schedule, so kind of ends the conversation there.</p> <p>17 Q. Now, I'm aware of the 2017 letter that you</p> <p>18 drafted to Ms. Lobato's criminal attorneys, and I am</p> <p>19 aware of the February 5th, 2021, letter to Mr. Owens and</p> <p>20 Ms. Wang.</p> <p>21 Have you drafted any other reports in this case?</p> <p>22 A. No. Well, the letter that I sent to Hans</p> <p>23 Sherrer in 2010. Yeah.</p> <p>24 Q. Fair enough. At this point does your</p> <p>25 February 5th, 2021, report reflect all of your opinions</p>
<p>15</p> <p>1 sitting there, dormant.</p> <p>2 Q. We all have those right now. Have you ever been</p> <p>3 retained as a forensic expert by a defendant in a civil</p> <p>4 case, so on behalf of the police department, so to speak?</p> <p>5 A. No.</p> <p>6 Q. Have you ever testified or been retained in a</p> <p>7 criminal trial on behalf of the prosecution?</p> <p>8 A. No.</p> <p>9 Q. So all of your work is for plaintiffs in civil</p> <p>10 context?</p> <p>11 A. And defendants in criminal context.</p> <p>12 Q. Okay. That was my next question.</p> <p>13 A. Well, you said, "all", so just want to make</p> <p>14 sure --</p> <p>15 Q. I ask horrible questions. So none of your work</p> <p>16 has been on behalf of the individual being questioned by</p> <p>17 the police; is that fair?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever rendered an expert opinion, in</p> <p>20 either the civil or criminal context, that a confession</p> <p>21 was not coerced, that the police did the right thing?</p> <p>22 A. In a court of law, like at a testimony or in a</p> <p>23 deposition?</p> <p>24 Q. Correct.</p> <p>25 A. No.</p>	<p>17</p> <p>1 in this case?</p> <p>2 A. Yes. I have not reviewed any materials since I</p> <p>3 wrote that report.</p> <p>4 Q. Do you have any intention of drafting any</p> <p>5 rebuttal reports or supplement reports as you sit here</p> <p>6 today?</p> <p>7 A. Not without new information or a report to</p> <p>8 rebut.</p> <p>9 Q. And so what was the scope of your retention in</p> <p>10 the Lobato case? What were you asked to do?</p> <p>11 A. To review materials related to the case.</p> <p>12 Q. And let me just find the materials you reviewed.</p> <p>13 The materials -- and you can refer to your report.</p> <p>14 So the materials that you reviewed for the 2017</p> <p>15 letter was the transcript of Ms. Lobato's statement, the</p> <p>16 audio of that same statement, the arrest report, autopsy</p> <p>17 report, interview with Laura Linn Johnson, interview with</p> <p>18 Dixie Tienken, opening trial statements by the State and</p> <p>19 Defense, Tom Thowsen's criminal testimony, the transcript</p> <p>20 of Ms. Lobato's criminal testimony, transcript of Dixie</p> <p>21 Tienken's criminal testimony, list of grounds for a</p> <p>22 habeas corpus petition, and the Supreme Court of Nevada</p> <p>23 judgment.</p> <p>24 That's what you reviewed in 2017; correct?</p> <p>25 A. Correct.</p>



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<p>18</p> <p>1 Q. And since that time, you have been provided the</p> <p>2 civil depositions of Thowsen, LaRochelle, Lobato; the</p> <p>3 training of the two detectives; the same transcript of</p> <p>4 Ms. Lobato's statement; the Metropolitan Police</p> <p>5 Department interviewing techniques and deception</p> <p>6 detection; and the officer's report in this case.</p> <p>7 Is that everything you reviewed?</p> <p>8 A. Yeah. Most recently, yes. That's everything</p> <p>9 that I reviewed in this case, yes.</p> <p>10 Q. Okay. And your opinions in this case are about</p> <p>11 whether -- and I know this case is kind of tricky, so let</p> <p>12 me see if I can say this correctly -- about whether</p> <p>13 Ms. Lobato confessed to the July 8th, 2001, murder of</p> <p>14 Duran Bailey; is that fair?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Are you offering any opinions as to</p> <p>17 whether the officers had probable cause to arrest</p> <p>18 Ms. Lobato?</p> <p>19 A. No.</p> <p>20 Q. Okay. Are you offering or do you intend to</p> <p>21 offer any opinions that the defendant detectives</p> <p>22 fabricated evidence in this case?</p> <p>23 A. Is their report evidence, the police report?</p> <p>24 Q. Okay. Do you believe there is fabricated</p> <p>25 evidence in the police report?</p>	<p>20</p> <p>1 today?</p> <p>2 A. Yes.</p> <p>3 Q. What else did you review, if anything, to</p> <p>4 prepare for this deposition?</p> <p>5 A. I received an email with the documents that we</p> <p>6 plan to go over today, so I focused on those materials.</p> <p>7 Included, I think, the officer's report, my report,</p> <p>8 Ms. Lobato's deposition. I think there was one more.</p> <p>9 Oh, and her statement from 2001. I focused on those,</p> <p>10 yes.</p> <p>11 Q. And I just included those because I may refer to</p> <p>12 them. I may use them to refresh your memory. I don't</p> <p>13 know if I will or not. We will see where it goes.</p> <p>14 A. Okay.</p> <p>15 Q. When you reviewed those documents, did they</p> <p>16 change any of your opinions or add any opinions?</p> <p>17 A. No.</p> <p>18 Q. So let me ask you generally about false</p> <p>19 confessions, just in general.</p> <p>20 How would you define a false confession?</p> <p>21 A. A false confession is a statement taking</p> <p>22 responsibility for a crime that the person did not</p> <p>23 commit.</p> <p>24 Q. And on Page 2 of your report, it begins, and it</p> <p>25 mentions it a couple of times in your report; this is not</p>
<p>19</p> <p>1 A. I don't believe so, but -- I mean, there was</p> <p>2 some discussion of the word "snapped," and, you know, I</p> <p>3 think that's part of their theory, but I don't really</p> <p>4 have an opinion about that.</p> <p>5 Q. Okay. I will give you a chance to talk about</p> <p>6 that, because I saw your report. So, yeah, I'm not</p> <p>7 trying to be tricky here. I'm trying to just narrow this</p> <p>8 down.</p> <p>9 A. Okay.</p> <p>10 Q. So do you have an opinion as to whether the</p> <p>11 detectives fabricated, made up, or created evidence in</p> <p>12 this case to frame Ms. Lobato?</p> <p>13 A. Intentionally?</p> <p>14 Q. Intentionally.</p> <p>15 A. I do not have an opinion about that.</p> <p>16 Q. Okay. Are you offering or do you intend to</p> <p>17 offer any opinions that the defendant detectives withheld</p> <p>18 evidence from the prosecution or Ms. Lobato in this case?</p> <p>19 A. No. I'm not going to offer an opinion on that.</p> <p>20 Q. And I'm going to go through your report with</p> <p>21 you. You have a copy of it with you; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Feel free to refer to it. It's not a</p> <p>24 memory test.</p> <p>25 Did you review your report before the deposition</p>	<p>21</p> <p>1 a typical false confession, in referring to Ms. Lobato;</p> <p>2 correct?</p> <p>3 A. Correct. I said that, yeah.</p> <p>4 Q. What did you mean by that?</p> <p>5 A. What I meant by that is that I believe that</p> <p>6 Ms. Lobato was describing an event that happened to her.</p> <p>7 I do not think it was the same event that the police</p> <p>8 think it was or appear to think it was, and that's why I</p> <p>9 thought it was not a typical false confession case.</p> <p>10 Q. Okay. So let's see if we agree on this. We</p> <p>11 agree that Ms. Lobato confessed to an actual event that</p> <p>12 occurred.</p> <p>13 A. Well, I hesitate to use the word "confess"</p> <p>14 because it sounds like she's taking responsibility for</p> <p>15 something. I think she was describing a sexual assault</p> <p>16 that happened to her.</p> <p>17 Q. Okay. So but we agree that she was talking</p> <p>18 about an actual event?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. But it's your opinion that she was</p> <p>21 talking about an event completely separate from the Duran</p> <p>22 Bailey murder?</p> <p>23 A. Yes, that's my opinion.</p> <p>24 Q. Okay. So I understand the word "confession" is</p> <p>25 difficult, but -- so we agree that she was talking about</p>

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<p style="text-align: right;">22</p> <p>1 an attempted assault on her where she used force against  2 somebody that actually happened?  3 A. I don't know what you mean by "used force,"  4 but --  5 Q. Well, she admitted that she tried to fight off  6 her attacker by stabbing a knife in him.  7 Do you agree with that?  8 A. By stabbing a knife in him, yes. She's -- yeah.  9 Yes.  10 Q. I think we are on the same page. I'm not trying  11 to be tricky.  12 A. Yeah.  13 Q. We can agree that she was talking about  14 something that actually happened. You just disagree with  15 how the police interpreted that; correct?  16 A. Yes. I think -- I do not think that it was the  17 murder of Duran Bailey that she was talking about.  18 Q. Okay. You believe she was confessing or  19 referring to an event that occurred prior to the Duran  20 Bailey murder?  21 A. Yes.  22 Q. So, in your opinion, did the detectives in this  23 case elicit a false confession, or how would you describe  24 it?  25 A. I believe that the detectives believe that they</p>	<p style="text-align: right;">24</p> <p>1 where the taxonomy of false confessions doesn't really  2 apply to Ms. Lobato's case.  3 Q. What do you mean by that?  4 A. Well, if you ask me to categorize, do I think  5 this is a voluntary, a coerced internalized, coerced  6 compliant false confession, I think it would be difficult  7 to do so.  8 I just don't think that the tax -- because this  9 is not a typical false confession case, I'm not sure that  10 the taxonomy applies here, but as I have mentioned in my  11 report, I do think that there is a lot of commonalities  12 that are shared between known proven false confession  13 cases and Ms. Lobato's case.  14 Q. Have you ever rendered an opinion in a case  15 similar to this where the confession doesn't meet any of  16 the three primary types but is still under the umbrella  17 of false confession?  18 A. I cannot think of another instance, no.  19 Q. So this was a unique case for you?  20 A. I would say so, yes.  21 Q. So maybe save some time then. So you are not  22 going to testify this was a characteristic --  23 characteristic of a -- strike that. I don't know my  24 words.  25 You are not going to testify that this was a</p>
<p style="text-align: right;">23</p> <p>1 obtained a confession to the Duran Bailey murder.  2 Q. Okay. And we're going to talk about this a lot.  3 So you believe that what the detectives suffered from is  4 tunnel vision; correct?  5 A. Yes.  6 Q. Okay. So going back to your report, according  7 to your report, there are three main types of false  8 confessions: voluntary, compliant, and internalized; is  9 that correct?  10 A. Yes.  11 Q. Can you explain to me what a voluntarily  12 confession is.  13 A. It's somebody -- I mean, it's somebody who  14 voluntarily confesses to the police to a crime that they  15 did not commit. The quintessential examples are people  16 who confess to protect the true perpetrator, or perhaps  17 they have mental health problems where they are seeking  18 notoriety or trying to gain infamy, something like that,  19 yeah.  20 Q. Does the Lobato case have any characteristics of  21 voluntary confession?  22 A. Voluntary false confession?  23 Q. Sorry, voluntary false confession.  24 A. I think, you know, overall, if you are going to  25 go over all of these, I think this is a good instance</p>	<p style="text-align: right;">25</p> <p>1 voluntary confession.  2 A. Voluntary false confession, not as is typically  3 defined in the literature, no.  4 Q. That's a good way to put it. And you are not  5 going to testify that, as typically defined in the  6 literature, this was a compliant false confession.  7 A. No.  8 Q. Okay. And you are not going to testify, as  9 identified in the literature, that this is an  10 internalized confession.  11 A. No.  12 Q. Okay. Would you even have a term for this type  13 of confession?  14 A. Not as -- not in the scientific literature, no.  15 Q. Okay. Now, your report also discusses the three  16 dispositional characteristics that are common in false  17 confessions: juvenile status, mental illness, and drug  18 use; correct?  19 A. Yes.  20 Q. Why are those dispositional characteristics  21 here? How did you come to reach those three? Why are  22 they important?  23 A. Because they are relevant to Ms. Lobato's  24 circumstances in that she was 18 years of age at the time  25 and that she's a known drug user and that she has mental</p>

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<p>26</p> <p>1 health issues.</p> <p>2 Q. So just generally speaking, why does juvenile</p> <p>3 status play a role in false confessions? What has your</p> <p>4 research told you on that?</p> <p>5 A. Well, all the things that I have mentioned in my</p> <p>6 report about -- sorry, I'm trying to bring up my report.</p> <p>7 That they are socially, emotionally, neurologically</p> <p>8 different than adults, that our brains and -- continue to</p> <p>9 mature and develop into our 20s, that they may be more</p> <p>10 suggestible.</p> <p>11 They may be more risk taking or -- use better</p> <p>12 judgment as we get older. That's certainly true of</p> <p>13 18-year-olds. Those kinds of things that -- maybe some</p> <p>14 adherence to authority figures, those kind of issues that</p> <p>15 make youth in general more at risk for false confessions.</p> <p>16 Q. Okay. And I understand mental illness. I will</p> <p>17 skip that one, but, now, with drug use, in the false</p> <p>18 confession context, is that referring to someone who is</p> <p>19 on drugs when they confess or someone that has just used</p> <p>20 drugs at some point?</p> <p>21 A. I would say both are risk factors. Certainly if</p> <p>22 somebody is on drugs during the interrogation, that can</p> <p>23 absolutely affect their ability to answer questions and</p> <p>24 answer the questions truthfully and be suggestible and</p> <p>25 those kinds of things.</p>	<p>28</p> <p>1 with me that the detectives only interviewed Ms. Lobato</p> <p>2 one time, and that was on July 20th, 2001?</p> <p>3 A. In a formal interview, yes.</p> <p>4 Q. It's my understanding, and I could be wrong,</p> <p>5 that was the only date. And I'm not talking just about</p> <p>6 the interview. I'm talking about the interaction with</p> <p>7 her.</p> <p>8 So let me say it this way: Do you agree with me</p> <p>9 that the only day that the detectives interacted with</p> <p>10 Ms. Lobato was on July 20th, 2001?</p> <p>11 A. I'm just -- my hesitation is about that incident</p> <p>12 in the jail cell where she said it was -- I don't know.</p> <p>13 Was that the same day? Was that with the police</p> <p>14 officers? I'm not really sure.</p> <p>15 Q. It was the same day with the same detectives.</p> <p>16 A. Okay. Then yes.</p> <p>17 Q. But they only formally interviewed her one time;</p> <p>18 correct?</p> <p>19 A. Yes, to my knowledge.</p> <p>20 Q. So going to how the police met up with</p> <p>21 Ms. Lobato, do you have any opinions as to whether it was</p> <p>22 reasonable for the detectives to go interview her after</p> <p>23 they had talked to Ms. Johnson?</p> <p>24 A. As I said in my report, I thought that it was --</p> <p>25 it was hearsay information and that they viewed her as a</p>
<p>27</p> <p>1 But also if somebody is a long-term drug user,</p> <p>2 that affects their executive functioning, and they may</p> <p>3 have a brain damage if they're, you know, certainly a</p> <p>4 long-time drug user.</p> <p>5 There is also the issue of withdrawals, and if</p> <p>6 somebody is a drug addict or a drug -- has a drug abuse</p> <p>7 problem and they are in need of a drug, that's going to</p> <p>8 affect their ability to withstand the interrogation and</p> <p>9 give in to suggestions of the police.</p> <p>10 Q. Okay. You have reviewed countless confessions;</p> <p>11 correct?</p> <p>12 A. I missed the beginning of your question. You</p> <p>13 kind of cut out there.</p> <p>14 Q. You have reviewed and evaluated hundreds if not</p> <p>15 thousands of confessions in your career; correct?</p> <p>16 A. I wouldn't say anywhere near thousands.</p> <p>17 Q. Okay.</p> <p>18 A. Maybe 200, 500 maybe. Yeah.</p> <p>19 Q. Okay. So but you are familiar with the</p> <p>20 different ways that police operate. You are familiar</p> <p>21 with different tactics they use. You have seen a lot of</p> <p>22 different things; correct?</p> <p>23 A. Yes.</p> <p>24 Q. So I want to talk about the Lobato case and see</p> <p>25 what we agree on and don't agree on. So do you agree</p>	<p>29</p> <p>1 suspect, which, in my opinion, they made clear in their</p> <p>2 depositions, perhaps their trial testimony, that they</p> <p>3 brought the forensic crime scene team with them.</p> <p>4 They read her her Miranda rights, so I think</p> <p>5 it's -- in my opinion, they were clearly viewing her as a</p> <p>6 suspect after having an initial phone call with the</p> <p>7 person. I can't -- is it --</p> <p>8 Q. Ms. Johnson.</p> <p>9 A. Johnson. Thank you. And then going to meet</p> <p>10 with her, Ms. Johnson, and then they interviewed</p> <p>11 Ms. Lobato the same day.</p> <p>12 Q. Okay. So I think we agree that the detectives</p> <p>13 interviewed Ms. Johnson. They viewed Ms. Lobato as a</p> <p>14 suspect and traveled to her home to interview her as a</p> <p>15 suspect.</p> <p>16 You agree with all that; correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Do you believe that it was reasonable for</p> <p>19 them to do that?</p> <p>20 A. If you are asking me about probable cause, I'm</p> <p>21 not --</p> <p>22 Q. Okay.</p> <p>23 A. -- a police officer or anything like that, so...</p> <p>24 Q. Are you critical of them for doing that?</p> <p>25 A. In my report you could construe it as critical,</p>

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<p>30</p> <p>1 yes.</p> <p>2 Q. Now, do you dispute that the officers had the</p> <p>3 legal right to go and talk to Ms. Lobato?</p> <p>4 A. I don't have an opinion on that.</p> <p>5 Q. Okay. In your report you were critical that</p> <p>6 they didn't talk to Ms. Tienken first; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Why do you believe the officers should have</p> <p>9 talked to Ms. Tienken before interviewing Ms. Lobato?</p> <p>10 A. Because, in my opinion, the discussion they had</p> <p>11 with Ms. Johnson was -- there was a lot of ifs and maybes</p> <p>12 and I don't know and I assume. It just seemed like a</p> <p>13 lot of hearsay to me, and it was -- my recollection is</p> <p>14 that Ms. Johnson was describing her conversations she had</p> <p>15 with Ms. Tienken, so it seemed reasonable to me to go to</p> <p>16 Ms. Tienken first.</p> <p>17 Q. To verify the information?</p> <p>18 A. Yes.</p> <p>19 Q. Now, if they had hypothetically gone and met</p> <p>20 with Ms. Tienken, what she told them would also have been</p> <p>21 hearsay; correct?</p> <p>22 A. Well, at least it would have come directly from</p> <p>23 Ms. Lobato.</p> <p>24 Q. Okay. So it would have been one layer less of</p> <p>25 hearsay?</p>	<p>32</p> <p>1 them not interviewing Ms. Tienken first. And so I just</p> <p>2 want to get the foundation for that.</p> <p>3 But if you are comfortable saying, "I'm not</p> <p>4 offering any opinions on police practices or procedure,"</p> <p>5 then I can move on from that.</p> <p>6 Are you okay with that?</p> <p>7 A. Well, I do want to add and make clear, again,</p> <p>8 that, to me, I think the important thing is that they</p> <p>9 viewed her as a -- they viewed Ms. Lobato as a suspect,</p> <p>10 starting from the initial phone call that they had with</p> <p>11 Ms. Johnson.</p> <p>12 Q. And do you think that was unreasonable?</p> <p>13 A. I think it's -- it started the tunnel vision,</p> <p>14 the confirmation bias.</p> <p>15 Q. Okay. Do you agree that we have a somewhat</p> <p>16 unique crime in this case in that the decedent had his</p> <p>17 penis severed? Do you think that's a unique</p> <p>18 characteristic?</p> <p>19 A. I have no opinion on that.</p> <p>20 Q. Okay. So going to Ms. Lobato, you agree with me</p> <p>21 that she was 18 years old on the date of the interview?</p> <p>22 A. Yes.</p> <p>23 Q. And you would agree with me that once a person</p> <p>24 turns 18 they are legally classified as an adult?</p> <p>25 A. Yes, according to the bright line of the</p>
<p>31</p> <p>1 A. Well, you know, I'm not sure of the exact</p> <p>2 definition of "hearsay" because, I mean, Ms. --</p> <p>3 Ms. Johnson was certainly one removed, whereas</p> <p>4 Ms. Tienken had a direct conversation with Ms. Lobato.</p> <p>5 Q. Okay. And I looked at what you reviewed. Do</p> <p>6 you know -- are you familiar with the reason why</p> <p>7 Detective Thowsen said they didn't go talk to Ms. Tienken</p> <p>8 first?</p> <p>9 A. I saw something today in the officer's report I</p> <p>10 don't remember seeing before, but it's been several</p> <p>11 years, that they thought she was going to run, something,</p> <p>12 or they were told she was going to run.</p> <p>13 Q. They were concerned that she would warn</p> <p>14 Ms. Lobato --</p> <p>15 A. Yeah. Yeah.</p> <p>16 Q. Do you have any criticisms of the reasoning in</p> <p>17 that they wanted to catch Ms. Lobato by surprise and not</p> <p>18 have time to prepare? Are you critical of that?</p> <p>19 A. You know, you asked me what I was asked to do in</p> <p>20 this case, and primarily it was to review the statement.</p> <p>21 And you asked me specifically am I going to be talking</p> <p>22 about police procedure and those kind of things, and my</p> <p>23 answer was no.</p> <p>24 Q. Okay. The only reason I'm asking about this is</p> <p>25 it was in your report that it seemed you were critical of</p>	<p>33</p> <p>1 criminal justice system.</p> <p>2 Q. Do you have any criticisms of the detectives</p> <p>3 interviewing Ms. Lobato alone without a parent present?</p> <p>4 A. No.</p> <p>5 Q. You are aware that Ms. Lobato was read her</p> <p>6 Miranda rights and signed a Miranda card; correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have any opinions as to whether</p> <p>9 Ms. Lobato was capable or incapable of understanding her</p> <p>10 Miranda rights?</p> <p>11 A. I can speak to the literature and in</p> <p>12 generalities, and, you know, overall I see my role as</p> <p>13 educating the jury if I were to testify at trial. And</p> <p>14 there is much research, science to support that younger</p> <p>15 individuals and persons with mental health problems do</p> <p>16 not fully understand.</p> <p>17 But can I speak to Ms. Lobato 20 years ago and</p> <p>18 her ability to understand and whether or not she did</p> <p>19 understand her Miranda rights, whether or not it was a</p> <p>20 voluntary signature? I cannot opine on that.</p> <p>21 Q. Okay. So you can render an opinion as to</p> <p>22 generally how people Ms. Lobato's age react and respond</p> <p>23 or understand, but you don't have any opinions</p> <p>24 specifically to Ms. Lobato's situation?</p> <p>25 A. That's true, yes.</p>



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<p>34</p> <p>1 Q. And you would agree with me that Ms. Lobato had 2 a high school diploma equivalent? 3 A. At the time of the interrogation, I don't 4 recall. 5 Q. Okay. Are you aware that Ms. Lobato had been 6 living on her own and not with her parents for a time 7 period prior to the interview? 8 A. You mean in Las Vegas? 9 Q. Yes. She left home. She was living on her own. 10 A. Yes. 11 Q. Are you aware of Ms. Lobato having any 12 documented learning disabilities in July of 2001? 13 A. No. 14 Q. Did you review any of Ms. Lobato's academic 15 records? 16 A. No. 17 Q. Did you review any IQ tests taken by Ms. Lobato? 18 A. No, I didn't know that any IQ tests were 19 available. 20 Q. And I don't know that they are. I didn't know 21 if you had something -- so I think you answered this 22 question, but you don't have any personal understanding 23 of Ms. Lobato's cognitive abilities on the date of the 24 interview? 25 A. No. I will say that she was very upset. She</p>	<p>36</p> <p>1 middle-age suspect? 2 A. I can't answer that question in one... 3 Q. Okay. Do you -- have you ever issued 4 recommendations through your professional capacity or 5 through your training on how police should interview 6 adults but young adults differently than older adults? 7 A. No. 8 Q. Now, we talked briefly about how substance abuse 9 affects false confessions. Do you believe that substance 10 abuse played a role in Ms. Lobato's confession? 11 A. Played a role in Ms. Lobato's what? 12 Q. In her confession, her statement. 13 A. In a sense it did because she doesn't have a 14 clear memory of the incident that she's describing. In 15 part that was because of the drug abuse. She said she 16 had been up for three days, taking meth during that time. 17 It's also memory is affected because, you know, 18 in her mind -- you know, is -- she said it happened 19 Memorial Day weekend which was more than a month before 20 the interrogation. 21 Q. Okay. And so the substance abuse plays a role 22 in her confession due to the fact that she had a vague 23 memory as to what occurred and had a difficult time 24 placing the time of the event, that sort of thing? 25 A. I think she's pretty clear in her mind about</p>
<p>35</p> <p>1 claimed that she was -- didn't feel well, that she was 2 going to -- felt sick, felt nauseous, throw up. 3 I would say that, you know, there is some 4 evidence that she was depressed around that time and also 5 that she hadn't taken her medication that had been 6 prescribed to her for depression prior to the 7 interrogation, because my understanding is that it was 8 given to her either in the car ride back up to Las Vegas 9 or soon thereafter. 10 Q. Okay. And would those opinions right there 11 involve the mental illness category, so to speak? 12 A. Well, I forgot your previous question, but it 13 was speaking to her demeanor, I think, during the 14 interrogation. 15 Q. Okay. I'm going to come back to all that. I 16 will head to that a little bit later. So my question for 17 you is based upon your -- most of your research, if I 18 reviewed it correctly, and I didn't review everything. 19 It's on juveniles, but you do have some research 20 on young adults, like 18 to 24; is that correct? 21 A. I would not say that most of my research is on 22 juveniles in regards to false confessions. I would say 23 maybe 25 percent of it is. 24 Q. My question is, in your opinion, should police 25 officers treat an 18-year-old suspect differently than a</p>	<p>37</p> <p>1 when it occurred. I think the drugs and her vague memory 2 of the event is -- opened her up to more suggestibility 3 from the police officers, allowing her to accept some of 4 the scenarios that they brought up, because she didn't 5 have a clear recollection. 6 Q. In your research and studies, generally, does 7 drug abuse affect a suspect's ability to place things in 8 sequential order, timing, that sort of thing? 9 A. I haven't really conducted research on that, but 10 my overall sense is that, yes, but I'm not an expert on 11 that. 12 Q. Once the detectives learned that there was a 13 meth history, a methamphetamine history with Ms. Lobato, 14 in your opinion, should they have conducted the interview 15 differently or taken any different action? 16 A. Not due to that per se, no. 17 Q. Moving on to mental illness. Is it your 18 understanding that on July 20th, 2001, Ms. Lobato had not 19 been diagnosed with any mental disabilities? 20 A. She hadn't been diagnosed with bipolar disorder. 21 If she had been diagnosed with something else I didn't 22 remember. I don't remember seeing that. 23 Q. Is it your opinion that mental illness played a 24 role in this event? 25 A. I think that it could have, yes.</p>

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<p style="text-align: right;">38</p> <p>1 Q. And what's that based upon?</p> <p>2 A. The event -- to clarify, "the event," meaning</p> <p>3 the interrogation?</p> <p>4 Q. The interrogation, I'm sorry. Yeah.</p> <p>5 A. It's okay. Well, like I said, I mean, she could</p> <p>6 have been depressed -- I mean, it seems like she was</p> <p>7 depressed if -- she was very emotional during the</p> <p>8 interrogation, very upset.</p> <p>9 I did not listen to the tape this time, but I</p> <p>10 listened back in 2017, and, you know, it's clear on the</p> <p>11 transcript as well that she was very upset and that, like</p> <p>12 I said, she had gone to the doctor and was prescribed</p> <p>13 medication for her depression, either shortly before or</p> <p>14 shortly after the interrogation. I don't remember the</p> <p>15 date. Must have been before because she had Prozac and</p> <p>16 another medicine that starts with an L, I don't remember</p> <p>17 the name of.</p> <p>18 So that I do think that that could have played a</p> <p>19 role, again, with her suggestibility to the -- to the</p> <p>20 detectives' suggestion.</p> <p>21 Q. And you are correct; I believe she was diagnosed</p> <p>22 on July 15th and provided medication 13th through 15th,</p> <p>23 somewhere in that time period.</p> <p>24 If the detectives knew that she was on</p> <p>25 antidepressants or should be taking antidepressants, do</p>	<p style="text-align: right;">40</p> <p>1 in this case.</p> <p>2 Q. Let me see if I understand that. You are not</p> <p>3 necessarily critical of how the detectives conducted the</p> <p>4 interrogation on what they asked, what they did, but they</p> <p>5 should have taken the information they received and</p> <p>6 investigated it further and --</p> <p>7 A. No. I'm glad you asked me to clarify. I think</p> <p>8 it's both of those things. I do think that, you know,</p> <p>9 they had the mindset when they interrogated Ms. Lobato</p> <p>10 that she was guilty, as taught by Reid, the Reid</p> <p>11 Technique, that, you know, you assume guilt.</p> <p>12 It's clear that she was a suspect. They had no</p> <p>13 other suspects, no other leads, and I think, you know,</p> <p>14 they heard of this incident with a penis and being cut,</p> <p>15 and they, you know, went from A to Z pretty quickly in my</p> <p>16 opinion.</p> <p>17 Q. Okay. Now, in your research and work, you look</p> <p>18 at the interrogation. Do you look at the setting the</p> <p>19 interrogation takes place in, like whether it's in a</p> <p>20 police station, when it's in a home, whether it's in a</p> <p>21 jail cell? Is that part of your research?</p> <p>22 A. Sometimes.</p> <p>23 Q. Okay. Do you have any criticisms with the</p> <p>24 detectives interviewing Ms. Lobato in her home?</p> <p>25 A. No, I don't think so.</p>
<p style="text-align: right;">39</p> <p>1 you believe that they should have conducted the interview</p> <p>2 any differently?</p> <p>3 A. Well, I think a lot of this, to me, is not just</p> <p>4 the interview itself, the questions, but how they</p> <p>5 approached it before and after. And like the quote that</p> <p>6 I included in my report from Reid, you know, from the</p> <p>7 Reid Technique from the Inbau, et al. manual, they should</p> <p>8 have corroborated evidence. They should have, you know,</p> <p>9 basically not had tunnel vision.</p> <p>10 I think they had tunnel vision. I don't think</p> <p>11 that they -- it ever occurred to them that they --</p> <p>12 Ms. Lobato was not discussing the murder of Duran Bailey.</p> <p>13 You know, again, they should have been a little</p> <p>14 bit more cautious in how they interpreted her statements</p> <p>15 as -- I'm trying to find this quote.</p> <p>16 You know, so "the investigator should exercise</p> <p>17 extreme diligence in establishing the accuracy of such a</p> <p>18 statement through subsequent corroboration."</p> <p>19 Specifically when a juvenile or person with mentally --</p> <p>20 with -- who is mentally or psychologically impaired.</p> <p>21 It's -- "In these situations imperative that</p> <p>22 interrogators do not reveal details of the crime so that</p> <p>23 they can use the disclosure of such information by the</p> <p>24 suspect as verification of the confession's</p> <p>25 authenticity." And I think overall that's what's lacking</p>	<p style="text-align: right;">41</p> <p>1 Q. Do you have any concerns or opinions, critical</p> <p>2 opinions of the way the detectives physically set up the</p> <p>3 interview, like with how they sat, how they positioned</p> <p>4 themselves?</p> <p>5 A. I don't remember seeing or reading anything</p> <p>6 about that. I thought it was an audio.</p> <p>7 Q. Yeah. Well, no, it is audio. Now, why -- do</p> <p>8 you have an opinion as to why Ms. Lobato was emotionally</p> <p>9 upset during the interview?</p> <p>10 A. It could be because the detectives and</p> <p>11 Ms. Lobato had a conversation before the audio recorder</p> <p>12 was turned on where they raised her -- the issue of her</p> <p>13 sexual abuse.</p> <p>14 Q. Okay.</p> <p>15 A. And I think it's also that she was describing a</p> <p>16 very traumatic event in her life.</p> <p>17 Q. Okay. So let's start with the prior sexual</p> <p>18 abuse that she had suffered that they brought up.</p> <p>19 Are you critical of the fact that Detective</p> <p>20 Thowsen brought that up at -- once he initially met</p> <p>21 Ms. Lobato?</p> <p>22 A. I'm not sure how appropriate it was. I think</p> <p>23 it's very consistent with the detectives' hypothesis of</p> <p>24 why they think she snapped.</p> <p>25 Q. Okay. But do you believe that bringing that up</p>

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<p style="text-align: right;">42</p> <p>1 caused Ms. Lobato to falsely confess or do something she</p> <p>2 would not normally have done?</p> <p>3 A. I think it could have played a role in her</p> <p>4 suggestibility, in her willingness to accept the</p> <p>5 scenarios that the police officers developed across the</p> <p>6 course of the interrogation.</p> <p>7 Q. You have used the term a couple of times. Will</p> <p>8 you define for me what "suggestibility" means to you.</p> <p>9 A. The way I'm using it is that their -- their</p> <p>10 vulnerability, their amenability to accepting the</p> <p>11 suggestions of the police officers to adopt them as their</p> <p>12 own. So it's for Ms. Lobato to adopt the suggestions of</p> <p>13 the detectives as her own.</p> <p>14 Q. Now, is -- is another term for tunnel vision</p> <p>15 confirmatory bias?</p> <p>16 A. Confirmation bias, yes.</p> <p>17 Q. Confirmation bias, sorry. Thank you. It's your</p> <p>18 opinion that the detectives had confirmation bias in this</p> <p>19 case?</p> <p>20 A. Yes.</p> <p>21 Q. And why is that a problem?</p> <p>22 A. It's a problem because in confirmation bias, as</p> <p>23 I wrote in my report, it leads to basically confirming</p> <p>24 evidence that is consistent with their hypothesis, in</p> <p>25 this case that Ms. Lobato killed Mr. Duran, and a very</p>	<p style="text-align: right;">44</p> <p>1 Q. And you think that is a problem?</p> <p>2 A. I do think that it is a problem because it's --</p> <p>3 the way that I read it is that it was -- they questioned</p> <p>4 her. They had her tell her story, and then they had her</p> <p>5 retell it on the tape, and that is problematic.</p> <p>6 Q. Okay. And why is it problematic?</p> <p>7 A. Because you don't know, then, where the</p> <p>8 information is coming from. You know, the best practice</p> <p>9 recommendations are to videotape or audiotape from</p> <p>10 beginning to end so that you have a clear record of who</p> <p>11 said what first, when and how statements came about.</p> <p>12 Without having a recording of that, we just don't know.</p> <p>13 Q. And you mentioned that that's the best practice.</p> <p>14 Where is that best practice located? Is it in a written</p> <p>15 form anywhere?</p> <p>16 A. I said it was the best practice recommendation,</p> <p>17 and it is in the white paper that I mentioned, the 2010</p> <p>18 paper that was sponsored and approved, represents the</p> <p>19 American Psychology Law Society. It's also best practice</p> <p>20 recommendation of many different organizations. I would</p> <p>21 say -- I should know this. I would say maybe up to 20 to</p> <p>22 25 states have now made it law to record interrogations.</p> <p>23 Q. Now, record the interrogation or record the</p> <p>24 entire interaction?</p> <p>25 A. To -- well, to me that's what it would be, the</p>
<p style="text-align: right;">43</p> <p>1 important part of it is also that the -- you ignore or</p> <p>2 discount information that's contrary to your hypothesis.</p> <p>3 So anything that's not consistent with this</p> <p>4 theory that she killed Mr. Duran is just discounted,</p> <p>5 ignored, reinterpreted to be consistent with their</p> <p>6 theory.</p> <p>7 Q. Okay. So the confirmatory bias is when a</p> <p>8 detective takes whatever facts they receive, either</p> <p>9 discard them or try to shoehorn them into the box they</p> <p>10 are trying to make somebody fit in?</p> <p>11 A. I would say basically, yes. Yeah.</p> <p>12 Q. And how -- do you have any opinions or have you</p> <p>13 ever written on how a detective could avoid</p> <p>14 confirmatory -- confirmation bias, what they can do?</p> <p>15 A. Well, I mean, clearly one thing that sets up the</p> <p>16 confirmation bias -- increases the risk of confirmation</p> <p>17 bias is the way the Reid Technique is taught is with the</p> <p>18 guilt-presumptive interrogations, that you don't</p> <p>19 interview people who you believe are innocent because in</p> <p>20 theory you're supposed to have weeded them out at an</p> <p>21 earlier phase.</p> <p>22 Q. Now, your report mentions a couple of times that</p> <p>23 the detectives talked to Ms. Lobato prior to turning on</p> <p>24 their tape recorder; correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">45</p> <p>1 interrogation, the entire interaction, not the confession</p> <p>2 statement, absolutely. The recording policies differ</p> <p>3 across states. Sometimes they are only for youth.</p> <p>4 Sometimes they are only in serious crimes, you know.</p> <p>5 But states that do have these videotaping or</p> <p>6 electronic recording policies, I would say all of them</p> <p>7 would make it clear that the entire interactions need to</p> <p>8 be electronically recorded.</p> <p>9 Q. And do you have any idea or an opinion as to how</p> <p>10 long the conversation occurred prior to recording?</p> <p>11 A. No, I don't.</p> <p>12 Q. Now, do you agree with me that the suspect</p> <p>13 should consent to recording?</p> <p>14 A. I don't really have an opinion on that.</p> <p>15 State -- sorry, states differ on that.</p> <p>16 Q. I'm picking up some feedback.</p> <p>17 A. Me too. I was like, "Is somebody else talking?"</p> <p>18 Maybe it was me. No, but states differ on whether or not</p> <p>19 they have to inform the suspect of -- that they are being</p> <p>20 recorded or not.</p> <p>21 Q. And Detective Thowsen testified that he tries to</p> <p>22 build a rapport with the suspect and make them at ease</p> <p>23 before he has permission to record.</p> <p>24 Do you have any criticisms of that?</p> <p>25 A. No.</p>



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<p style="text-align: right;">46</p> <p>1 Q. I will represent to you that, based upon the</p> <p>2 signing of the Miranda card and then the start of the</p> <p>3 recorded statement, it's about 15 minutes.</p> <p>4 Do you think 15 minutes is too long for the</p> <p>5 detectives to have gone without recording?</p> <p>6 A. Yes. I think any -- any -- all interactions,</p> <p>7 whether it be a minute or two minutes, you know, they</p> <p>8 should all be recorded so we have a clear record of what</p> <p>9 occurred.</p> <p>10 Q. Now, when you reviewed Ms. Lobato's deposition,</p> <p>11 which you did not have in 2017, did you see where she</p> <p>12 testified that a conversation prior to recording was</p> <p>13 almost identical to the tape recorded statement?</p> <p>14 A. I don't recall seeing that, but --</p> <p>15 Q. Did you see anything in her deposition where she</p> <p>16 said that, in the unrecorded conversation, any</p> <p>17 information was suggested to her, told to her, or fed to</p> <p>18 her?</p> <p>19 A. Well, I do see that she makes it clear in her</p> <p>20 2020 deposition that she felt that the detectives were</p> <p>21 suggesting information to her, and if you are telling me</p> <p>22 that the 15 minutes prior was identical to this, then I</p> <p>23 would say, yes, she would make that claim that they were</p> <p>24 being suggestive.</p> <p>25 Q. What she said in her deposition was after the</p>	<p style="text-align: right;">48</p> <p>1 Q. Okay. But that's an opinion, correct, as to</p> <p>2 what the terms mean?</p> <p>3 A. What "lost it" means? I took "lost it" to mean,</p> <p>4 like, she snapped, that -- you know, the theory that I --</p> <p>5 the way that I understand it is the detectives believe</p> <p>6 that her -- Ms. Lobato's prior sexual abuse as a child</p> <p>7 made her in a frenzied state and attack Mr. Bailey, but I</p> <p>8 don't -- I didn't see anything like that in Ms. Lobato's</p> <p>9 words herself.</p> <p>10 Q. And I don't mean to be argumentative here, but</p> <p>11 that's -- people can interpret statements and words</p> <p>12 differently.</p> <p>13 A. Blacked out?</p> <p>14 Q. Any. Yeah. I will move on.</p> <p>15 Did you see any evidence that the detectives</p> <p>16 ever tried to get Ms. Lobato to change her story?</p> <p>17 A. I'm going to say no because they thought she was</p> <p>18 talking about the murder of Duran Bailey, and they</p> <p>19 wouldn't try and get her to change it then, because I</p> <p>20 think it was a situation where they thought they were</p> <p>21 talking about the same event, but I don't believe that</p> <p>22 they were.</p> <p>23 Q. Now, you've probably listened to, watched, read</p> <p>24 a lot more interrogations than I have. To me, so that</p> <p>25 means nothing, but, to me, this interrogation or</p>
<p style="text-align: right;">47</p> <p>1 recording was over, they suggested to her about a</p> <p>2 dumpster, about a parking lot, and so we suggested</p> <p>3 material actually occurred during the recording.</p> <p>4 A. Okay. Then it would be identical, but I think</p> <p>5 my point is that we just don't know what happened during.</p> <p>6 I don't even know if it was 15 minutes. I assume that</p> <p>7 was something that the detective said. I don't know.</p> <p>8 Q. Okay. Are you aware of any testimony from</p> <p>9 Ms. Lobato in her 2020 deposition that she said the</p> <p>10 detectives tried to change her story?</p> <p>11 A. I don't recall that.</p> <p>12 Q. Are you aware of any evidence that the</p> <p>13 detectives in any way tried to change Ms. Lobato's story?</p> <p>14 A. I don't know about firm evidence, but I will</p> <p>15 talk about that "snapped" again that I mentioned in my</p> <p>16 report. You know, I mean, even within the interrogation</p> <p>17 itself, I felt that the interrogators, the detectives</p> <p>18 mischaracterized the statements that Ms. Lobato had just</p> <p>19 made, saying that, you know, "You describe the situation</p> <p>20 where you lost it," but she never said anything like</p> <p>21 that.</p> <p>22 Q. Now, Ms. Lobato, in her recorded statement, did</p> <p>23 say that she blacked out. Do you recall that?</p> <p>24 A. Yeah. That's what I wrote in my report, but</p> <p>25 that's not anything close to losing it.</p>	<p style="text-align: right;">49</p> <p>1 interview seemed really laid back and mellow.</p> <p>2 Was it unusual for you in any way in that</p> <p>3 respect?</p> <p>4 A. No, not at all. I think it's a common</p> <p>5 misconception about interrogations, that they're</p> <p>6 intimidating and threatening and yelling. They are often</p> <p>7 very laid back. I mean, it's -- it's better to catch</p> <p>8 flies with honey than vinegar.</p> <p>9 Q. Do you have any criticisms of the questioning</p> <p>10 method that Detective Thowsen used during the interview?</p> <p>11 A. Was he the primary interrogator?</p> <p>12 Q. Yeah, he's the primary. Sorry.</p> <p>13 A. It's okay. I mean, just the -- the only example</p> <p>14 that comes to my mind is how he, you know, reinterpreted</p> <p>15 her statements to say that she lost it. And, I mean,</p> <p>16 that's a perfect example of a suggestive question, to say</p> <p>17 things, attribute them to the suspect, that they never</p> <p>18 said.</p> <p>19 Q. And besides the "snapped" and "lost it," did you</p> <p>20 see anything else in the reports or statement that you</p> <p>21 believe the detectives misconstrued?</p> <p>22 A. Do you mind, I'm going to take a minute, and I'm</p> <p>23 going to review her statement again.</p> <p>24 Q. No. We have been going a little bit over an</p> <p>25 hour. Would you like to take, like, a ten-minute break?</p>

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<p>50</p> <p>1 A. Sure. That sounds good.</p> <p>2 Q. Okay. And, you know, I don't have terribly too</p> <p>3 much longer, so let's take a ten-minute break, and you</p> <p>4 can read your statement -- her statement, and we will</p> <p>5 come back.</p> <p>6 A. Okay. That sounds good. Thanks.</p> <p>7 (Whereupon, a recess was taken at this</p> <p>8 time.)</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q. Doctor, you understand that you are still under</p> <p>11 oath?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And did you get a chance to read</p> <p>14 Ms. Lobato's -- the transcription of her interview?</p> <p>15 A. Yes. Yeah.</p> <p>16 Q. Okay. Now, in interviews -- in police</p> <p>17 interviews of suspects in general, I think we can agree</p> <p>18 on some things. One problem that the research has shown</p> <p>19 is that interrogations can be unreasonably prolonged by</p> <p>20 police officers; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Do you believe that Ms. Lobato's</p> <p>23 interview was unreasonably prolonged by the detectives?</p> <p>24 A. No.</p> <p>25 Q. Another problem in the literature is that the</p>	<p>52</p> <p>1 actually written about that, where I don't think that</p> <p>2 those are appropriate markers of voluntariness, and they</p> <p>3 certainly aren't appropriate markers of reliability in a</p> <p>4 confession statement.</p> <p>5 Q. And another characteristic was that the police</p> <p>6 made promises of leniency or reduced criminal sentences.</p> <p>7 Did you see that in this case?</p> <p>8 A. No.</p> <p>9 Q. And, you know, it's -- we mentioned at the</p> <p>10 start, this is kind of a unique case; correct?</p> <p>11 A. In terms of a false confession, yes.</p> <p>12 Q. Thank you. In terms of a false confession.</p> <p>13 Now, when police interview a suspect -- and I don't mean</p> <p>14 to be facetious, but is it your opinion that criminal</p> <p>15 suspects tell the truth all the time?</p> <p>16 A. No.</p> <p>17 Q. So should detectives believe every -- take at</p> <p>18 face value everything a suspect says?</p> <p>19 A. No. I just -- you know, that, to me, is one of</p> <p>20 the issues with this case.</p> <p>21 Q. Okay. Explain that to me, please.</p> <p>22 A. Is that they didn't investigate further. They</p> <p>23 only investigated things that were consistent with her --</p> <p>24 every time that they heard something that wasn't</p> <p>25 consistent, like all of the dates that didn't line up</p>
<p>51</p> <p>1 police officers use the threat or use of physical</p> <p>2 punishment to get a confession; is that correct?</p> <p>3 A. Just to be clear, I think you are talking about</p> <p>4 risk factors in false confession cases or risk factors</p> <p>5 that -- factors that increase the risk of a likelihood of</p> <p>6 a false confession.</p> <p>7 Q. It's probably something I got off Wikipedia,</p> <p>8 so...</p> <p>9 A. No, I just -- you know, I wanted to clarify</p> <p>10 that. Also, you know, I always like to point out to</p> <p>11 people, a very important facet of false confessions is</p> <p>12 that the person is innocent, and so the factors that you</p> <p>13 are talking about are factors that would increase the</p> <p>14 risk of a false confession.</p> <p>15 Q. Okay. And that didn't occur in this case per</p> <p>16 se, is that correct, the --</p> <p>17 A. Threats of punishment?</p> <p>18 Q. Yes.</p> <p>19 A. No, I don't recall any. No.</p> <p>20 Q. Okay. Did you see where the detectives denied</p> <p>21 Ms. Lobato food or water or other comfort that would make</p> <p>22 the interview uncomfortable?</p> <p>23 A. That, I'm not sure you are going to find in</p> <p>24 literature. That is more of a -- you know, what the</p> <p>25 courts use to determine voluntariness, and I have</p>	<p>53</p> <p>1 and, you know, the -- for instance, with her driving her</p> <p>2 car to her ex-boyfriend's house and when it was towed and</p> <p>3 all of these events that occurred prior to, they just --</p> <p>4 they seemed to ignore them and didn't reconcile --</p> <p>5 reconcile them.</p> <p>6 Q. Okay. And are you talking specifically about</p> <p>7 the date of the interview?</p> <p>8 A. No. I'm talking about the date that -- the date</p> <p>9 of the -- inconsistencies between the dates of the two</p> <p>10 events of when Ms. Lobato was attacked, which she claims</p> <p>11 to be Memorial Day weekend, and when Mr. Duran was</p> <p>12 murdered, which was July 8th, July 9th.</p> <p>13 Q. Okay. But so my question is -- is you are</p> <p>14 saying the detectives had confirmation bias. They get</p> <p>15 her statement, and they arrest her that day; correct?</p> <p>16 They arrest her immediately after her interview?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. Yeah.</p> <p>20 Q. Are you aware of any investigation the</p> <p>21 detectives did after her arrest?</p> <p>22 A. Well, I read the -- I reviewed the report this</p> <p>23 morning, and I saw on the interview, subsequent</p> <p>24 interviews that they had done -- again, were very focused</p> <p>25 on Ms. Lobato as the suspect, and there was a lot of</p>

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<p>54</p> <p>1 information in those -- you know, the brief reports of</p> <p>2 the write-ups with the interviews of those folks that</p> <p>3 were very inconsistent with the details of Mr. Duran's</p> <p>4 death.</p> <p>5 Q. Okay. So you would agree that in the -- you are</p> <p>6 referring to the officer's report; correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. You would agree that in the officer's</p> <p>9 report, there is a fair amount of statements and evidence</p> <p>10 that did not support Ms. Lobato of committing the crime</p> <p>11 of the murder of Duran Bailey; correct?</p> <p>12 A. There was a fair -- I just want to repeat so</p> <p>13 we're sure. There was a fair amount of information that</p> <p>14 did not support her as the perpetrator of the --</p> <p>15 Q. Yeah.</p> <p>16 A. -- crime? Yes, I would agree with that.</p> <p>17 Q. And that was all in the report?</p> <p>18 A. I mean, yeah, they were synopses of interviews</p> <p>19 they had with people who were connected to Ms. Lobato.</p> <p>20 Q. But as you saw in the report, the detectives</p> <p>21 documented the evidence that was unfavorable towards what</p> <p>22 they believed to be the truth; correct?</p> <p>23 A. Yeah. I guess you can construe it that way,</p> <p>24 yes.</p> <p>25 Q. Did you ever see where either detective referred</p>	<p>56</p> <p>1 A. Yes, they absolutely should. Yes.</p> <p>2 Q. Okay. So one thing I don't understand is when</p> <p>3 does questioning become suggestive and when does it</p> <p>4 become improper, in your opinion, compared to just asking</p> <p>5 basic routine follow-up questions or trying to jog</p> <p>6 someone's memory?</p> <p>7 A. A big part of being a suggestive question is by</p> <p>8 introducing information that the suspect did not say but</p> <p>9 attributing it to the suspect.</p> <p>10 Q. Did you see that in this case?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And give me the examples.</p> <p>13 A. The example is what I said before with the --</p> <p>14 saying that she lost it.</p> <p>15 Q. Okay.</p> <p>16 A. And, you know, there is -- introducing things</p> <p>17 like the -- "Well, did you hit him with anything else?</p> <p>18 Are you sure about the location?" I mean, I think she</p> <p>19 was certain about where -- you know, when she first</p> <p>20 describes the event, about where it happened at the</p> <p>21 Budget Suites and everything, but the -- that is</p> <p>22 inconsistent with what the police believe, so they</p> <p>23 questioned things that wasn't consistent with their</p> <p>24 hypothesis.</p> <p>25 Q. Okay. So help me with this. So let's start</p>
<p>55</p> <p>1 to Ms. Lobato's statement as a confession?</p> <p>2 A. There is too much material. I don't remember.</p> <p>3 Q. In your report, your February 5th, 2021, report,</p> <p>4 you do refer to the fact that the State referred to it as</p> <p>5 a confession, the State of Nevada, the prosecutors.</p> <p>6 A. Yes.</p> <p>7 Q. But you are not aware of anywhere where the</p> <p>8 detectives referred to it as a confession; correct?</p> <p>9 A. I don't remember is my answer.</p> <p>10 Q. Do you agree or disagree, after reviewing</p> <p>11 Ms. Lobato's statement, that she is vague as to the date</p> <p>12 and time of the crime?</p> <p>13 A. I missed what you said. Sorry.</p> <p>14 Q. No problem. Do you agree or disagree that in</p> <p>15 Ms. Lobato's recorded statement, she is vague as to the</p> <p>16 date and time of the crime she is discussing?</p> <p>17 A. I believe she started off being more certain,</p> <p>18 and then as the interview progressed and the detectives</p> <p>19 introduced more information is when she started to --</p> <p>20 "Well, maybe that could have happened. I don't</p> <p>21 remember," those kind of statements.</p> <p>22 Q. Now, when detectives interview a suspect, I know</p> <p>23 there is issues with them suggesting evidence, placing</p> <p>24 things in a suspect's mind. Certainly detectives are</p> <p>25 allowed to ask follow-up questions; correct?</p>	<p>57</p> <p>1 with the Budget Suites location, the statement she made.</p> <p>2 So the detectives ask her, "Are you sure? Could</p> <p>3 it have been somewhere else?" Do you believe those are</p> <p>4 inappropriate questions?</p> <p>5 A. In really depends on the circumstances.</p> <p>6 Q. Because, you know, we've established that</p> <p>7 suspects don't always tell the truth, that police are</p> <p>8 used to people lying to them, so how should a police</p> <p>9 officer handle that situation? Someone says, "The crime</p> <p>10 happened at Spot A," and the detective says, "Are you</p> <p>11 sure? Could it have been B?" What's the problem with</p> <p>12 that?</p> <p>13 A. The problem is -- is that I don't think that the</p> <p>14 police officer, the detectives in this case -- sorry,</p> <p>15 losing my word here -- considered the fact -- or</p> <p>16 considered that they were talking about two different</p> <p>17 crimes.</p> <p>18 And so they would only ask questions that were</p> <p>19 inconsistent with the evidence in a way or inconsistent</p> <p>20 with what they believed happened. And because of her</p> <p>21 suggestibility, she would just say, "That could have -- I</p> <p>22 could have hit him with a bat, you know, if I had a bat</p> <p>23 in my car," and then all of those kinds of little details</p> <p>24 added up to confirm, in the detectives' mind, that she</p> <p>25 was truly guilty.</p>

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<p>58</p> <p>1 Q. Okay.</p> <p>2 A. And that's the problem with it. So it's really</p> <p>3 better to ask open-ended questions.</p> <p>4 Q. Okay. So here we have a very violent crime, as</p> <p>5 you know, the detectives are investigating. So when they</p> <p>6 asked her, "Did you hit him with anything?" would you</p> <p>7 have asked that in a different way, or what's your</p> <p>8 criticism of that type of a question?</p> <p>9 A. It's not -- it's not the criticism of the</p> <p>10 question per se; it's the things that have come after</p> <p>11 that and how they are interpreted.</p> <p>12 Q. So, again, it's not the question or the answer;</p> <p>13 it's how the detectives are viewing the answer --</p> <p>14 A. Yes.</p> <p>15 Q. -- with the confirmation bias.</p> <p>16 A. Yes.</p> <p>17 Q. And you would agree that during the interview,</p> <p>18 Ms. Lobato indicated on several times that she didn't</p> <p>19 remember a lot, that she had -- she blacked out, she had</p> <p>20 memory issues about what occurred; correct?</p> <p>21 A. I would say that, but I think oftentimes it was</p> <p>22 in response to these kinds of pointed-put questions from</p> <p>23 the detectives.</p> <p>24 Q. Now, in your opinion, did she make any</p> <p>25 incriminating statements during the interview?</p>	<p>60</p> <p>1 She says, "I think it was my intention," if you will.</p> <p>2 Q. And, in your opinion, was that consistent with</p> <p>3 the crime committed against Duran Bailey?</p> <p>4 A. It could be. I mean, it's very tentative. She</p> <p>5 says, "I don't know if I actually did." We know that in</p> <p>6 his case, his penis was cut off. We also know that he</p> <p>7 had head trauma. We also know that he had lacerations to</p> <p>8 his anus, all of those things that she does not describe.</p> <p>9 Q. So does -- when we talked about prior drug use,</p> <p>10 in your research or your understanding, when a suspect</p> <p>11 has abused drugs, does it impact -- can it impact the</p> <p>12 accuracy of the suspect's statement?</p> <p>13 A. Yes, it can. Yes.</p> <p>14 Q. So when we get into the statements where -- I'm</p> <p>15 paraphrasing here, but they ask her if she had hit him</p> <p>16 with anything, and she denies it. She says, "No" but</p> <p>17 then says, "But it's possible," or, you know, "But it's</p> <p>18 poss," and the end of the word trails off.</p> <p>19 How is a detective to interpret those type of</p> <p>20 statements or use those?</p> <p>21 A. I think you are asking me during the course of</p> <p>22 the interrogation, but I keep returning to the point that</p> <p>23 it's often, like, how they interpreted that information</p> <p>24 and what they did with it after the interview ended.</p> <p>25 Did they follow up on it, and did they</p>
<p>59</p> <p>1 A. Incriminating herself in the crime against</p> <p>2 Mr. Bailey?</p> <p>3 Q. Thank you. Yes; correct.</p> <p>4 A. That's a very difficult question to answer</p> <p>5 because -- no, I would say no because she did not -- I</p> <p>6 don't even think she knew of the event with Mr. Bailey,</p> <p>7 who that was or anything, at that time.</p> <p>8 Q. Now, she did tell the detectives that she cut</p> <p>9 the man's penis and that it was her intention to cut it</p> <p>10 off.</p> <p>11 Do you agree with that?</p> <p>12 A. Can you point me to where that is. I don't</p> <p>13 remember that.</p> <p>14 Q. Page 6 on her voluntary statement. When I say,</p> <p>15 "Page 6," I'm referring to the top, underneath where it</p> <p>16 says, "Voluntary Statement."</p> <p>17 A. I'm reading Page 6.</p> <p>18 Q. Halfway down.</p> <p>19 A. Well, she says, "I think I was trying to cut it</p> <p>20 off but I don't know if I actually did."</p> <p>21 Q. Yeah. She never says she cut it off, but she</p> <p>22 says that she knew it was her intention to cut it off.</p> <p>23 Do you agree with that?</p> <p>24 A. Well, that's what I'm saying. I'm saying she</p> <p>25 was a little bit more tentative than you are making it.</p>	<p>61</p> <p>1 investigate it? Did they investigate other suspects?</p> <p>2 Did they investigate all of these inconsistencies?</p> <p>3 Q. I kind of touched upon this, but in your report,</p> <p>4 you mentioned that Ms. Lobato -- how the detectives were</p> <p>5 implying or suggesting the answers to their questions.</p> <p>6 Did you really see any evidence of that in this</p> <p>7 case?</p> <p>8 A. Well, I think it's important to note that this</p> <p>9 is what -- how Ms. Lobato is feeling.</p> <p>10 Q. Okay. So that's based upon her subjective</p> <p>11 perception as to what was going on?</p> <p>12 A. You know, and I think that there is some</p> <p>13 evidence of it in the statement -- I mean, in the</p> <p>14 questions themselves by -- I mean, that's just a natural</p> <p>15 thing for the way people interpret questions. Well,</p> <p>16 that's how -- that's what makes them leading in a way.</p> <p>17 Q. The example that you use in your report is --</p> <p>18 excuse me -- is that they implied or suggested about the</p> <p>19 cutting off of the penis.</p> <p>20 Do you recall that in your report?</p> <p>21 A. I missed the beginning of what you said.</p> <p>22 Q. Okay. The example in your report of implying or</p> <p>23 suggesting information is the fact of cutting off the</p> <p>24 penis.</p> <p>25 A. Okay. Yeah.</p>



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<p style="text-align: right;">62</p> <p>1 Q. Do you believe that the officers suggested or</p> <p>2 implied that?</p> <p>3 A. I'm going to take a minute and look at the</p> <p>4 statement again.</p> <p>5 Q. I didn't have a page. Let me see if I can find</p> <p>6 it for you.</p> <p>7 A. Where we were just on Page 6, they talk about</p> <p>8 cutting -- she says, "I think I was trying to cut it off</p> <p>9 but I don't know if I did." I don't know if there is</p> <p>10 another spot.</p> <p>11 Q. I should have put the page in there.</p> <p>12 A. It's okay.</p> <p>13 Q. My question about that is the issue of the penis</p> <p>14 being cut off was put into -- I mean, Ms. Lobato said she</p> <p>15 told many people about it prior to meeting with the</p> <p>16 police; correct?</p> <p>17 A. She says she told many people about the</p> <p>18 incident. I don't agree that she told a lot of people</p> <p>19 about cutting it off. I think, you know, there is a lot</p> <p>20 that's been said about whether she cut it off or just cut</p> <p>21 it.</p> <p>22 Q. Okay. Fair enough. And in reading the</p> <p>23 officer's report, the witnesses in this case who she</p> <p>24 allegedly told that she had had this interaction at the</p> <p>25 Budget Suites, it varied in detail as to what she did</p>	<p style="text-align: right;">64</p> <p>1 never felt bad about the Budget Suites incident. In</p> <p>2 fact, she was proud of it. It gave her a level of</p> <p>3 confidence or increased her self-esteem.</p> <p>4 Did you see that?</p> <p>5 A. Yes, I do remember that. Yeah.</p> <p>6 Q. Does that impact your decision as to why she was</p> <p>7 so emotional at the time she was interviewed?</p> <p>8 A. No. I take that to mean -- to indicate, you</p> <p>9 know, 20 years had passed. I don't put too much weight</p> <p>10 into that at all.</p> <p>11 Q. Okay. Did you see any evidence in the record</p> <p>12 that the detectives lied to Ms. Lobato during the</p> <p>13 interview?</p> <p>14 A. No, I don't recall that. No.</p> <p>15 Q. Did you see any evidence that you would</p> <p>16 characterize as an attempt to coerce Ms. Lobato?</p> <p>17 A. No. I think I said, in fact, in my report that</p> <p>18 I didn't find the questions to be coercive or</p> <p>19 threatening. I can't remember the words I used.</p> <p>20 Q. And, in your opinion, having watched and</p> <p>21 reviewed so many interviews, do you believe that the</p> <p>22 detectives were trying to suggest answers to Ms. Lobato,</p> <p>23 or do you think they were truly just trying to fact-find?</p> <p>24 A. I think that if they were trying to suggest</p> <p>25 answers, they weren't doing it intentionally. I don't</p>
<p style="text-align: right;">63</p> <p>1 with the gentleman's penis or what she did in general;</p> <p>2 correct?</p> <p>3 A. Their reports, yes.</p> <p>4 Q. And Ms. Tienken, in her statement, said that</p> <p>5 Lobato told her that she had cut the penis off and threw</p> <p>6 it.</p> <p>7 Do you recall that?</p> <p>8 A. No, but that -- that interview came after the</p> <p>9 interrogation.</p> <p>10 Q. Okay. So do you think that information -- are</p> <p>11 you critical of that information to Ms. -- I will strike</p> <p>12 that.</p> <p>13 Are you critical at all of the interview of</p> <p>14 Ms. Tienken?</p> <p>15 A. I didn't review that recently. I don't know.</p> <p>16 Q. Now, when we talked about her high emotional</p> <p>17 state in the interview, I think you already answered</p> <p>18 this, but what do you believe attributed, caused her to</p> <p>19 be so highly emotional before the interview was recorded?</p> <p>20 It brought up her past trauma, and you said also, I</p> <p>21 believe, discussing the actual event; correct?</p> <p>22 A. Yes.</p> <p>23 Q. I think I lost your volume.</p> <p>24 A. Oh, yeah. Yeah.</p> <p>25 Q. Now, in Ms. Lobato's deposition, she said she</p>	<p style="text-align: right;">65</p> <p>1 think that they had any -- any inkling that -- I don't</p> <p>2 think it occurred to them that she was talking about a</p> <p>3 different event.</p> <p>4 Q. And is it your opinion that Ms. Lobato told the</p> <p>5 truth to the detectives, I mean, when she was speaking,</p> <p>6 she was telling what she thought to be the truth?</p> <p>7 A. Yes, that is my opinion. Yeah.</p> <p>8 Q. And you would agree that, in reviewing</p> <p>9 Ms. Lobato's 2020 deposition, that she maintains that her</p> <p>10 statement is truthful and accurate; correct?</p> <p>11 A. Yes.</p> <p>12 Q. Ms. Lobato has never said that the detectives</p> <p>13 elicited false information from her, to your knowledge;</p> <p>14 correct?</p> <p>15 A. I don't know about that. I don't know.</p> <p>16 Q. Now, when I was looking for the one thing I</p> <p>17 failed to document in my questions, I did come across the</p> <p>18 part where Detective LaRochelle wrote in the report that</p> <p>19 Ms. Lobato, quote, snapped. Okay. And he said that she</p> <p>20 used that word while the recorder was off. Okay.</p> <p>21 So he's not -- according to him, he's not</p> <p>22 interpreting that from her statement. He's saying that's</p> <p>23 a word she actually used.</p> <p>24 A. Before or after her statement?</p> <p>25 Q. So this is from your report, Page 8. It says,</p>

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<p>66</p> <p>1 "Although LaRochelle claims that Ms. Lobato said she, 2 quote, snapped, unquote, while the recorder was off and 3 that he put this word in quotes in the officer report, 4 this same language does not appear in the arrest report 5 description." 6 My only point there was, according to 7 LaRochelle, he didn't use the word "snapped" based on his 8 interpretation of the recorded statement but a word she 9 actually used when it was off. 10 A. Right. And my point was that the only place 11 where it appears is the officer's report, which was 12 written in -- later, August, over a month after the 13 interrogation. It didn't appear in the arrest report, 14 which I thought was strange. 15 Q. Okay. So there is two separate documents, the 16 officer's report and the arrest report. 17 A. Yes. Yes. 18 Q. I'm with you. I got you. Now, did you also see 19 in Ms. Lobato's deposition that at the time, she thought 20 the detectives were fair to her. Her criticism of the 21 detectives is that basically she thinks they were being 22 nice to get a confession from her. 23 Do you recall seeing that? 24 A. I don't recall per se, but, again, it's very 25 consistent with how confessions, whether they are true or</p>	<p>68</p> <p>1 apologize. 2 So understanding what you just said, Ms. Lobato 3 has testified that her recorded statement is still 4 accurate, that it's truthful so that there essentially 5 was nothing in the prerecorded conversations that 6 impacted her statement. 7 A. Are you asking me, you know, because she said 8 this 20 years later? I mean, we just don't know what was 9 said in those first whatever number of minutes. 10 Q. Okay. 11 A. And that, I find concerning. And, to me, it's 12 just like we just don't know what was said during those 13 unrecorded statements. 14 Q. Okay. But your main criticism of the 15 detectives -- I mean, obviously you would have preferred 16 that they interview Dixie Tienken first, that they would 17 have recorded the entire thing, but -- so let me focus 18 solely on the information they obtained from Ms. Lobato. 19 You don't believe that they obtained a false 20 confession or any incorrect information. Your criticism 21 is the way they interpreted the information provided by 22 Ms. Lobato. 23 A. I would say that's true. I don't see any -- I 24 don't think there was a confession from Ms. Lobato about 25 the murder of Duran Bailey, but I do believe that the</p>
<p>67</p> <p>1 false, are obtained. 2 Q. So if I understand your opinion -- so correct me 3 here if I'm wrong -- is that this is not a typical false 4 confession case, that the detectives did not necessarily 5 do anything wrong during the interrogation and the 6 gathering of information. 7 The criticism of the detectives is the way they 8 interpreted that information and followed up on it 9 afterwards; is that fair? 10 A. I just want to be careful with how I say this. 11 I mean, you said, "The gathering, that they did nothing 12 wrong with the gathering of information or evidence 13 or" -- you know -- 14 Q. Let me break it down. That's probably not a 15 fair question to you. 16 What criticisms, if any, do you have of the 17 manner in which the recorded conversation was conducted? 18 A. Well, one thing that bothers me is that they had 19 an entire conversation before the recorder was turned on. 20 That makes -- it's hard to just base my opinion solely on 21 the recorded session, which is what you're asking me to 22 do, I think -- 23 Q. Okay. 24 A. -- and that makes me feel uncomfortable. 25 Q. I don't want to make you uncomfortable, so I</p>	<p>69</p> <p>1 police interpreted it as such, her statements as such. 2 Q. Okay. So your primary, not your only, but your 3 primary criticism in this case is the manner in which the 4 detectives interpreted Ms. Lobato's statement. 5 A. I would say the primary concern I had was the 6 confirmation bias, the tunnel vision which I think 7 relates to what you're saying. I don't think what you 8 said captured all of it, though. 9 Q. Okay. Do you agree or disagree with the 10 statement that everyone suffers from tunnel vision? 11 A. I believe that we're all susceptible to it, yes. 12 Q. Do you believe that when you are retained as an 13 expert in a case like this, you have tunnel vision on the 14 case yourself? 15 A. I believe that it's a possibility. I -- 16 because I know about it and I studied it and I have been 17 trained as a scientist to approach things objectively, I 18 would like to think that that helps guard against it, 19 safeguard against it. 20 Q. But we all have -- we're all predisposed to 21 certain biases; correct? 22 A. That's correct. 23 Q. Do you agree or disagree with this statement 24 that Ms. Lobato's statement to the detectives provided 25 conflicting evidence as to whether she was involved in</p>

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<p style="text-align: right;">70</p> <p>1 the murder of Duran Bailey?</p> <p>2 A. I'm sorry, I cannot parse that question. I</p> <p>3 don't even know if I agree or disagree.</p> <p>4 Q. Fair enough. In your review of the record, did</p> <p>5 you see any evidence that you believe supported the</p> <p>6 theory that Ms. Lobato was involved in the murder of</p> <p>7 Duran Bailey?</p> <p>8 A. There were some similarities. Like, I</p> <p>9 believe -- I think Duran Bailey was African-American.</p> <p>10 She described an African-American man. I mean, honestly,</p> <p>11 the penis cutting is not very consistent to me, but I</p> <p>12 could see how others might construe that. But, you know,</p> <p>13 there is -- in my estimation there was a lot more</p> <p>14 inconsistencies than there were consistencies.</p> <p>15 Q. And those inconsistencies and consistencies are</p> <p>16 found in the detective officer's report; correct?</p> <p>17 A. That's not the only place. They are in the</p> <p>18 autopsy and people's statements which I guess could be</p> <p>19 partly in the officer's report, yeah.</p> <p>20 Q. And you probably don't know the answer to this,</p> <p>21 but are you aware of any of that evidence that was not</p> <p>22 provided to Ms. Lobato's criminal defense team or the</p> <p>23 prosecution in the criminal matter in this case?</p> <p>24 A. I don't know the answer to that.</p> <p>25 Q. Did you read any of the criminal trial</p>	<p style="text-align: right;">72</p> <p>1 Q. Did you see evidence of minimization in this</p> <p>2 case?</p> <p>3 A. From the suspect or from the detective?</p> <p>4 Q. Let's start with Ms. Lobato.</p> <p>5 A. No, I didn't because I believed she was telling</p> <p>6 the truth as far as she remembered it about an incident</p> <p>7 that occurred to her.</p> <p>8 Q. Did you see evidence of minimization on the part</p> <p>9 of the detectives?</p> <p>10 A. I'm going to take a minute and I'm going to look</p> <p>11 at the statement -- the questions again just to make</p> <p>12 sure.</p> <p>13 Q. Please.</p> <p>14 A. I'm going to say, no, I didn't because one of</p> <p>15 the -- another thing that makes this more unique in a</p> <p>16 false confession case is because false confessors deny</p> <p>17 for a long period of time, and then the detectives use</p> <p>18 minimization techniques in order to get that denial and</p> <p>19 turn it into a confession.</p> <p>20 So she was never denying anything because, in</p> <p>21 her mind, she was talking about an incident that occurred</p> <p>22 to her.</p> <p>23 Q. Okay. So we talked a little bit and glanced --</p> <p>24 glancing references to the Reid interrogation technique.</p> <p>25 In your opinion, was the Reid interrogation</p>
<p style="text-align: right;">71</p> <p>1 transcripts in this case?</p> <p>2 A. In 2017 I believe I did.</p> <p>3 Q. Okay. In those transcripts did you see the</p> <p>4 arguments being made that Ms. Lobato was confessing to a</p> <p>5 different crime?</p> <p>6 A. You mean was that her defense at trial? I</p> <p>7 believe that it was, yes.</p> <p>8 Q. Okay. And clearly a jury disagreed with that;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Almost done here. Let me talk to you a little</p> <p>12 bit about a term that I really don't get, "minimizing."</p> <p>13 What is "minimizing" to you?</p> <p>14 A. Minimizing is -- what's most common in the</p> <p>15 scientific literature is talking about from the detective</p> <p>16 and their techniques to minimize the crime. So this is</p> <p>17 a -- I related it to Theme 2 -- or Step 2 in the theme</p> <p>18 development of the Reid Technique, the nine-steps Reid</p> <p>19 Technique.</p> <p>20 So it's a way to make the suspect more -- it's</p> <p>21 more morally acceptable for the suspect to confess</p> <p>22 because the detective uses these minimization techniques.</p> <p>23 The way the detectives are using it in this case is to</p> <p>24 talk about the suspect and his or her language and that</p> <p>25 they minimize their involvement.</p>	<p style="text-align: right;">73</p> <p>1 technique used against Ms. Lobato?</p> <p>2 A. I would say it's very consistent with it. I</p> <p>3 mean, as I think I said in my report, the Reid Technique</p> <p>4 has kind of been -- becomes synonymous with the</p> <p>5 accusatorial, confrontational method of interrogation.</p> <p>6 And it's kind of a misnomer, as we discussed,</p> <p>7 because I think they didn't use threatening techniques or</p> <p>8 anything, but they did start out with this assumption</p> <p>9 that she was guilty.</p> <p>10 Q. So when I look at this, which means absolutely</p> <p>11 nothing, there are characteristics that could be part of</p> <p>12 the Reid Technique, but this would not be an example of</p> <p>13 the Reid Technique, this case?</p> <p>14 A. If I were to teach a class on the Reid</p> <p>15 Technique, this would not be a great example of it, no.</p> <p>16 Q. Okay. We agree. Okay.</p> <p>17 A. But it does absolutely have some commonalities</p> <p>18 and -- yeah.</p> <p>19 Q. So I'm just going to sum up here. I think we</p> <p>20 have been over most of this.</p> <p>21 Do you believe that the detectives should have</p> <p>22 interviewed Ms. Lobato differently, just the way that</p> <p>23 they performed the interview, not the questions, not the</p> <p>24 way they interpret the answers, just the way they did the</p> <p>25 interview? Do you have any criticisms of that?</p>



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<p style="text-align: right;">74</p> <p>1 A. I'm not really sure what you are asking because</p> <p>2 if you're not asking about the questions -- you mean at</p> <p>3 the location or --</p> <p>4 Q. Just the setting. Like, do you believe it</p> <p>5 should have been done at a police house? Do you believe</p> <p>6 they should have done it outside? Do you believe they</p> <p>7 should have had a woman present, something along those</p> <p>8 lines?</p> <p>9 A. No.</p> <p>10 Q. Okay. And so, again, I'm just summing up here.</p> <p>11 We both -- I'm sorry.</p> <p>12 It's your opinion that Ms. Lobato confessed to</p> <p>13 an event that was different than the killing of Duran</p> <p>14 Bailey?</p> <p>15 A. Yes, and I will -- I want to add something to</p> <p>16 my -- the previous question that you just asked me. I</p> <p>17 think that they should have had the recorder on the</p> <p>18 entire time.</p> <p>19 Q. Correct. Sorry. Do you have an opinion or</p> <p>20 believe that the detectives intentionally committed any</p> <p>21 misconduct against Ms. Lobato during the interview?</p> <p>22 A. No, I don't believe that, but that's very common</p> <p>23 in -- I don't -- I am of the opinion that when the police</p> <p>24 obtain a false confession, they are not doing -- they're</p> <p>25 not getting -- knowingly getting a false confession from</p>	<p style="text-align: right;">76</p> <p>1 do.</p> <p>2 Q. Now, I read his statement differently, and</p> <p>3 that's fine. But I read it that you would expect someone</p> <p>4 that didn't commit the crime to deny committing the</p> <p>5 crime, and then later, I mean -- we can strike that. We</p> <p>6 just have a different opinion on it. But my question to</p> <p>7 you was very bad, I realize now.</p> <p>8 So my question to you that I should have asked</p> <p>9 was are all of the opinions you intend to offer at the</p> <p>10 time of trial contained in today's deposition and in your</p> <p>11 February 5th, 2021, report?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Let me just take you to the last</p> <p>14 page, 11, of your report.</p> <p>15 A. I will say unless there is new information</p> <p>16 that's provided to me.</p> <p>17 Q. If new information is provided and your opinions</p> <p>18 change or you develop new opinions, will you supplement</p> <p>19 your report?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. Okay. Thank you. So in your very last</p> <p>22 paragraph right above your rate, you write the following:</p> <p>23 "In sum, over 11 years and the review of numerous</p> <p>24 materials specific to this case, my opinion of whether</p> <p>25 Ms. Lobato confessed to killing Duran Bailey has not</p>
<p style="text-align: right;">75</p> <p>1 someone they believe to be innocent. I believe that in</p> <p>2 the false confession cases that I have seen, the police</p> <p>3 think that the person is guilty.</p> <p>4 Q. Okay. Are there any opinions or criticisms of</p> <p>5 the detectives that you intend to offer at the time of</p> <p>6 trial that we have not talked about today?</p> <p>7 A. I will take a minute to look at my report.</p> <p>8 Q. Please do.</p> <p>9 A. I would say the section of my report that talks</p> <p>10 about the commonalities associated with false confession</p> <p>11 cases and the ones that I have highlighted in the later</p> <p>12 section of my section on Ms. Lobato's case, talking about</p> <p>13 how the evidence is inconsistent with the evidence in the</p> <p>14 case, you know, her statements are inconsistent with the</p> <p>15 evidence in the case, and also that there was no new</p> <p>16 information learned to the police from Ms. Lobato's</p> <p>17 statements.</p> <p>18 And I also think it's important to mention</p> <p>19 that -- I think it was Detective Thowsen made the</p> <p>20 statement that, you know, essentially he doesn't believe</p> <p>21 that false confessions exist, that an innocent person --</p> <p>22 he claims that an innocent person would deny killing</p> <p>23 someone regardless of what techniques were used. And I</p> <p>24 think that speaks to his state of mind in a way that he</p> <p>25 believes false confessions don't occur, but indeed they</p>	<p style="text-align: right;">77</p> <p>1 changed. In my expert opinion, the detectives in this</p> <p>2 case suffered from tunnel vision/confirmatory biases,</p> <p>3 which led to an exclusive focus on Ms. Lobato, despite</p> <p>4 numerous and glaring inconsistencies in the attack she</p> <p>5 described and the facts of the Duran Bailey homicide, and</p> <p>6 led them to write reports, suggest theories, and document</p> <p>7 a version of events did not, in fact, happen."</p> <p>8 So my question there is with respect to the term</p> <p>9 "write reports of events that did not happen," do you</p> <p>10 believe that there were false reports written or just</p> <p>11 reports that have the wrong theory of the case?</p> <p>12 A. I think that's a difficult question for me to</p> <p>13 answer, because I didn't review all of the things that --</p> <p>14 you know, that might be in that report, so I don't know</p> <p>15 if they are false or not.</p> <p>16 Q. Okay. As you -- based upon your review of the</p> <p>17 record, are you aware of any reports that you believe are</p> <p>18 false?</p> <p>19 A. In their entirety, no.</p> <p>20 Q. Okay. Well, I really appreciate your time.</p> <p>21 Now, just so it's on the record, Ms. Wang and I have</p> <p>22 agreed that we are going to pay our own experts, so</p> <p>23 Loevy &amp; Loevy will be paying for your deposition. Okay?</p> <p>24 A. Okay.</p> <p>25 Q. Don't send me to collections, okay, if you don't</p>

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<p>78</p> <p>1 get anything.</p> <p>2 MS. WANG: Just send us an invoice.</p> <p>3 A. There is no -- is Ms. Wang going to ask me</p> <p>4 questions or no?</p> <p>5 Q. She may.</p> <p>6 A. I thought we were done.</p> <p>7 Q. Thank you very much for your time. I appreciate</p> <p>8 your patience with me today.</p> <p>9 A. Okay. Thank you.</p> <p>10 MS. WANG: I actually don't have any questions,</p> <p>11 based on the questioning done by Mr. Anderson.</p> <p>12 THE WITNESS: Okay. Great.</p> <p>13 MR. ANDERSON: That means she feels really good</p> <p>14 about that. Okay.</p> <p>15 THE WITNESS: Everybody have a nice weekend.</p> <p>16 THE REPORTER: Really quick, Counsel, did you</p> <p>17 need to order electronic?</p> <p>18 MR. ANDERSON: Yes. I will order electronic,</p> <p>19 regular and a mini.</p> <p>20 THE REPORTER: Counsel?</p> <p>21 MS. WANG: I am not going to order it yet.</p> <p>22 -oOo-</p> <p>23 (Whereupon, the deposition of</p> <p>24 ALLISON REDLICH was concluded at 11:11 a.m.)</p> <p>25</p>	<p>80</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF NEVADA )</p> <p>3 ) ss</p> <p>4 COUNTY OF CLARK )</p> <p>5 I, Lori-Ann Landers, a duly commissioned</p> <p>6 Notary Public, Clark County, State of Nevada, do hereby</p> <p>7 certify:</p> <p>8 That I remotely reported the taking of the</p> <p>9 deposition of the witness, ALLISON REDLICH, at the time</p> <p>10 and place aforesaid;</p> <p>11 That prior to being examined, the witness</p> <p>12 was by me duly sworn to testify to the truth, the whole</p> <p>13 truth, and nothing but the truth;</p> <p>14 That I thereafter transcribed my shorthand</p> <p>15 notes into typewriting and that the typewritten</p> <p>16 transcript of said deposition is a complete, true and</p> <p>17 accurate transcription of my said shorthand notes taken</p> <p>18 down at said time to the best of my ability.</p> <p>19 I further certify that I am not a relative</p> <p>20 or employee of an attorney or counsel of any of the</p> <p>21 parties, nor a relative or employee of any attorney or</p> <p>22 counsel involved in said action, nor a person financially</p> <p>23 interested in the action; and that transcript review FRCP</p> <p>24 30(e) was requested.</p> <p>25 IN WITNESS WHEREOF, I have hereunto set my</p> <p>hand in the County of Clark, State of Nevada, this 5th</p> <p>day of March 2021. <i>Lori-Ann Landers</i></p> <p>LORI-ANN LANDERS, CCR 792, RPR</p>
<p>79</p> <p>1 CERTIFICATE OF DEPONENT</p> <p>2 PAGE LINE CHANGE REASON</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 * * * * *</p> <p>15 I, ALLISON REDLICH, deponent herein, do hereby</p> <p>16 certify and declare under penalty of perjury the within</p> <p>17 and foregoing transcription to be my deposition in said</p> <p>18 action; that I have read, corrected and do hereby affix</p> <p>19 my signature to said deposition.</p> <p>20 ALLISON REDLICH</p> <p>21 Deponent</p> <p>22 Subscribed and sworn to before me the day</p> <p>23 of 2021.</p> <p>24 Notary Public</p> <p>25</p>	